

E- justice component

**Concept note prepared by Richard Labelle for the
UNDP Democratic Governance Group**

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Contents

Introduction to e-justice	3
Introduction to this project	3
Why e-justice for UNDP?.....	3
How can ICTs help the justice system?	4
What is e-justice?	4
Advantages of e-justice	5
Sharing and integrating government processes	5
What is the justification for investing in e-justice?.....	6
Enhanced process efficiency.....	7
More and better access to information about the justice system.....	7
Empowering the public and the legal system as well	7
More and better access to information for decision making by legal professionals.....	8
Enhanced human capacity	8
What are the steps required to implement e-justice?.....	8
E-justice for the poor	10
Development objectives:	11
The immediate or actionable objectives are to:	11
Issues / challenges facing e-justice implementations in the developing world	12
Some factors limiting e-justice	12
Actions for UNDP's governance programme to consider.....	13
1. Make better laws	13
2. Enhance service delivery to all and to the poor in particular	13
3. Enhance the efficiency of the justice sector.....	14
4. Facilitate access to legal and judicial information and services.....	14
5. Enhance the capacity of the public in general and of the poor in particular to make beneficial use of the justice sector.....	14
Specific considerations	14
Question – adding e-justice to the UNDP global programme.....	15
What should UNDP do?	16
Raise awareness of and access to legal information and rights - a legal information portal.....	16
Build capacity of the legal system using ICTs	17
Build capacity of legal organizations and professionals who work with the legal system to use ICTs	18
Enhance access to legal resources and services.....	18
Build capacity of the legal system: enhance process efficiency and service delivery....	18

INTRODUCTION TO E-JUSTICE

Legislative: pertains to law making
Legal: pertains to the law
Judicial: pertains to the courts and their operation

Introduction to this project

This project arose out of discussions that took place at UNDP New York on June 13, 2008 provide material for reflection to assist UNDP consider how ICTs could be used to enhance the operation of justice systems in general and in the context of UNDP's governance programme in particular.

Why e-justice for UNDP?

The UNDP "Access to Justice" Practice Note¹ states that *"Access to justice is a vital part of the UNDP mandate to reduce poverty and strengthen democratic governance... UNDP is committed to using a human rights-based approach in its programming, guided by international human rights standards and principles. Access to justice is a basic human right as well as an indispensable means to combat poverty, prevent and resolve conflicts"*.

The ability to use information and to communicate is fundamental to human welfare² as well as being fundamental to the operation of the justice system. Information is essential to ensure that evidence based decision making is possible. Appropriate information management technologies and practices are important for the operation of justice systems everywhere. "Reliable and accurate records support good governance, provide evidence for accountability and protect citizen's and human rights³". How information is or is not managed greatly influences whether or not legal systems operate in a fashion that is fair, accessible, transparent, predictable and accountable to the public and stakeholders for its actions and decisions.

Legal systems that are fair, accessible to all including the poor and disadvantaged, efficient, effective in reaching decisions in a timely manner, as well as transparent and accountable are necessary to ensure the rule of law and to help guarantee that everyone can share in the benefits of development. They are also key in the battle against poverty because ensuring the rule of law and the efficient operation of legal system are evidence of the will of states and governments to deal with these issues.

A sound legal system is essential to allow the poor and indeed all members of society to protect themselves and defend their interests, seek redress, stake claims to secure their basic human rights and to ensure that governments meet their obligations to them. As stated by Bigala⁴, "the law is the starting point – it confers rights and remedies".

Information is probably the most important asset in the judicial system. Justice systems are essentially information management systems that operate on a particular subset of human knowledge and know how, namely the law and its management and prosecution. Justice systems are established and operate as part of the obligations of the state to its constituents to ensure public safety and the rule of law and to enable the functioning of society, the economy and government.

¹ UNDP. 2004. *Access to justice. Practice note*. UNDP. 31 pp.

² Labelle, R. 2005. *ICT policy formulation and e-strategy development. A comprehensive guidebook*. UNDP – APDIP ICT4D Series. 101 pp. Bangkok, Thailand and New Delhi, India.

³ International Records Management Trust. 2008. Home page. <http://www.irmt.org/>

⁴ Bigala, D. 2006. *Status of cyber laws and legal provisions in Uganda*. PowerPoint presentation made on the occasion of the "EAC Regional Information Security Workshop", 27th – 28th April 2006, Kampala, Uganda.

Justice systems operate according to a set of rules and procedures, namely the law and legal procedures. ICTs don't make better laws and ICTs cannot ensure that the law is respected. People are responsible for that. However, the way information flows in the preparation and approval of laws and in the application and eventual prosecution of the law as well as in the provision of legal and justice services has a great influence on the effectiveness of legal and judicial systems and of the trust that the public as well as legal professionals themselves place in the law and in the country or jurisdiction where these laws apply.

Trust is the backbone of human collaboration and specifically of business, whether for profit or not. Without trust, things don't work according to plan and the benefits of society and development are for a few privileged souls. Issues that affect the quality of legal and judicial information and services will affect the trust of the public. Thus, enabling trust is essential for the functioning of societies that are focused on the public good. Unfortunately, not all societies are focused on the public good.

Because ICTs can have such an influence on the decision making process, an information rich decision support system such as a justice system can be greatly affected by the use of these tools.

It is not surprising that many countries and jurisdictions have turned to ICTs to rethink business models and practices and to strengthen governance by increasing process efficiency and the delivery of services in general and of justice sector services in particular to the public. The investment of countries around the world in e-government is evidence of this and this is growing everywhere.

Increased interest in e-justice systems follows this reasoning and the proliferation of e-government applications and solutions. Indeed, the use of ICTs are now the basis for re-engineering the way business is done at all levels of society and in all sectors of the economy. The transformation of public service everywhere according to a new model of service delivery has motivated great interest the world over. Accenture tracks developments in this field and has undertaken applied research on success in delivering public services through the use of ICTs and reports on this on an ongoing basis as well as proposing a model for e-government that also applies to e-justice systems⁵.

How can ICTs help the justice system?

ICTs can facilitate the preparation and approval of laws; enhance access to legal and judicial services; help the public to be better informed about the law and the status of people under the law; and empower people and in particular the poor, marginalized groups as well as the disenfranchised to make beneficial use of the justice system.

ICTs can do this directly by allowing citizens to surf the Internet for information on the law and legal and justice system services and to use other electronic access and information delivery mechanisms as well for this purpose.

ICTs can also do this by empowering others who can affect the poor. ICTs can also act through communication technologies that have traditionally been much used by the poor and marginalized people. These technologies include radio and its variants including community radio and digital satellite radio and increasingly, wireless technologies such as mobile phone networks and handsets.

What is e-justice?

E-justice is the use of ICTs and related management practices to enhance process efficiency in undertaking the work of the justice sector and in delivering services to the public as well as other government users. E-justice makes use of technology to facilitate information and knowledge sharing and management. E-justice is also a way of transforming the business of delivering justice sector services so that it is as efficient as possible and so that it focuses on people as beneficiaries and not just on process.

⁵ Accenture...

E-justice takes the greatest advantage possible of new technologies and management practices in order to focus on service delivery to the public. E-justice is based on understanding the demands and needs of the public as well as those of the public servants that will deliver the services in question. The public is the client and e-justice is based on a client centric view of service delivery and business process efficiency.

According to Accenture's model the best examples of e-government of which e-justice is a component are those in which the administration responds as best as possible to the needs of the public through the use of ICTs. E-justice seeks to rationalize and consolidate the use of resources, personnel and services to best meet the needs of the public as well as those of the government through the use of ICTs.

Advantages of e-justice

Sharing and integrating government processes

The streamlining and integration of government processes, enhancing efficiency and contributing to avoiding duplication of effort and resources and eliminating some forms of aberrant and illegal behaviour such as that associated with corruption, and/or reducing error frequency are some of the most important advantages of e-justice in particular and of e-government in general. ICTs facilitate the presentation of justice sector information and services using a common format to ensure conformity in providing public information and services to the public. ICTs can also contribute to enhancing access to these services by providing an opportunity to use mobile phone technology to log on to some services. Given the proliferation and rapid growth in cell phone penetration in the developing regions of the world especially, the use of this channel for disseminating information about the legal and justice system and related services is an opportunity not to be missed.

Streamlining invariably means focusing on the development and promotion of shared services for common business processes. Integrating business processes, securing these processes and the data associated with them and then linking these together under a common e-government platform can help to share essential information such as the full text of all laws as well as related information that can help the public and non specialists interpret and understand the law and its application.

Other important information such as periodic statistics on the operation of the justice system, the records of criminal, civil and commercial court proceedings, the records of court decisions, inmate records as well as records of evidence and testimonies, etc. as well as jurisprudence in a given jurisdiction as well as other information are made more readily available for sound decision making and to enhance accountability through the intelligent use of ICTs.

One of the first steps that can be taken in transforming and modernizing the justice sector is known as business process analysis (BPA). This is based on taking steps to understand the work processes and the information exchanged as well as workflow of organizations and institutions and people working in the justice system. Workflow deals with the nature of and way that information flows and tasks are ordained and organized and shared between people and organizations in order to undertake certain tasks and achieve certain outcomes.

Some ICT applications will be specific to the justice sector institutions, for example searching justice system knowledge bases, case management systems, court records, etc., the use of common e-government services such as a common government network will make it easier for judges, law enforcement officers and prosecutors as well as other legal professionals with the proper authorization to access these files in the normal course of their work. The use of shared services will assist the judiciary in reaching the public through common public access facilities that many governments are rolling out as part of their e-government programmes.

Sharing information across government departments and services is essential to the efficient operation of the justice sector and specifically to the agencies and personnel responsible for law enforcement and to the public that relies on the services of the justice sector.

More efficiency in the delivery of justice services in particular and of general government services in general means:

For the public, this means:

- Better decision making about how to secure justice sector information and services. This means less time finding information and services and a better understanding of how to access the required information and services
- Less queuing for services, for forms, to speak to a public administrator, to obtain documents, to pay fees, to obtain authorizations, etc.
- Less travel to secure government services
- Less time lost in seeking and obtaining public services
- Everyone has the same access via online services. Fewer opportunities for public servants to restrict access to public information, forms and services available in exchange for money or favours. Less opportunity for rent seeking behaviour by public officials and for bribing public officials
- Less or lower costs for the public to avail themselves of public services

For the public as well as the government and the country as a whole

- Less expenditure on energy as a result of the rationalization and consolidation of similar or same services as well as reductions in these same expenses by the public
- Reduced green house gas (GHG) emissions and pollution as a result of consolidated and rationalized public services and
- Other advantages that accrue as a result of increased access to the services of the justice sector in particular and to those of the government in general
- Better informed citizens and public servants leads to better performing countries from a social, human, economic and sustainable development perspective
- Less opportunity for rent seeking behaviour of public servants and of bribing by the public. A general reduction of corruption is one possible consequence
- A modern public service and government better able to respond to the needs of its citizens, to change and to opportunities in the global market place.

For the government

- More collaboration between public servants and public administrations
- More collaboration and coordination between countries and jurisdictions on issues of common concern, for example international criminal and/or terrorist activities
- Greater integration of common workflow and business processes with other ministries and public administrations. One single human resource management system, a common financial information system, common standards for ICT procurement and acquisition, common approach to IT support and service delivery within the public service, common system and approach to facilities management, an important consideration when looking at managing buildings, premises, properties and other physical assets
- Less losses due to corruption
- Less need to deal with cash based services in person, especially if electronic payment systems such as the e-Dinar system implemented by the Tunisian Post services.

WHAT IS THE JUSTIFICATION FOR INVESTING IN E-JUSTICE?

Enhanced process efficiency

- To speed up and facilitate the legal process and legal decisions and in so doing to increase the efficiency of the courts and the standing of the justice system and of the country. To enhance process efficiency and in so doing, to enhance the delivery of services in the justice sector to the public. Without reliable and fully operational service delivery, broader development objectives as well as immediate development objectives will not be achieved and once again, public trust in the legal system will suffer. If the justice system is perceived to be slow and inefficient, public trust will also suffer.
- ICTs can help lawyers and judges as well as other legal professionals write decisions by automating repetitive tasks and facilitating the storage and retrieval of jurisprudence and legal decisions and precedents as well as facilitating access to internationally available information and knowledge on the law and its application and interpretation.
- ICTs can help to computerize decisions that were taken and create a database of type or key decisions and best practices or type decisions as well as legal precedents that can be used as the basis for creating a record of jurisprudence that can be accessed and augmented by legal professionals on an ongoing basis.

NB. In Rwanda, in discussion with judges presiding over courts in provincial jurisdictions, the author learned that the young judges in the legal system in this location were very keen on using their desktop PCs to help them prepare and write decisions. What they complained about was inadequate training to allow them to make full use of their PCs. One judge remarked that he wanted to be able to access knowledge bases available online to help him take decisions, even in court! Even in this location, in Ruhengeri, the judges could access the Internet over the phone line. However not one of the judges knew that this was possible. All courts in Rwanda use the post to send monthly statistical reports to the Offices of the High Court in Kigali. No one knew that it was also possible to do so using the dial-up connection that each court office also was using for voice communications.

More and better access to information about the justice system

- To facilitate the legal process and to help make it more transparent and accountable. Greater access to information about the legal process and the operation of the court system for example will build support for the rule of law and for the government and for the justice system. Simple solutions such as publishing online a calendar of court proceedings can have an important impact by reducing the time spent trying to determine when and where court appearances will take place.

Empowering the public and the legal system as well

- ICTs can also assist the public to understand their rights and obligations and secure these as part of their basic rights as claim holders. ICTs assist the public stake and defend their claims to basic human rights in general and to the rights and privileges that they are guaranteed under the law of a given jurisdiction. ICTs do this by helping to empower the public to learn about their rights and obligations under the law and by helping them interact with the justice sector and its officials as well as other resources that can more readily be located and exploited online.
- E-justice systems can empower government decision makers by helping them better understand the state of operations within the justice sector and especially, by helping administrators and key decision makers to track the operation of the apparatus of the justice sector as well as serviced delivery
- E-justice systems can empower justice sector staff including legal professionals by helping them to better control workflow and can also enhance their contribution to the planning and operation of justice services and systems.

- E-justice systems can help the public and justice sector decision makers as well as legal professionals communicate and learn from one another, with the ultimate objective of providing feedback that can lead to better operations and improved service delivery

More and better access to information for decision making by legal professionals

- ICTs can enhance access to knowledge resources on many issues. As the world modernizes and business and social interactions take on new dimensions and complexity, as computerization becomes more ubiquitous and work and business processes change, law makers as well as the members of the legal profession need to evolve and to be able to adapt to these changing circumstances. ICTs are essential to allow timely access to news and information about public events and more important, about challenges to the rule of law as well as information about international law that increasingly affect us all. Issues such as governance, international law, recent thinking and developments in other areas of the law, cybersecurity, e-commerce, and related issues are increasingly debated and available online. Law makers as well as legal professionals need to have access to these resources to remain on top of their profession and to ensure that they can meet the needs of the public and of government at all levels.

Enhanced human capacity

- ICTs can assist legal professionals and others working in the justice sector to do their job. ICTs do this by allowing legal professionals to access legal resources such as other legal professionals and networks of legal professionals, information and knowledge databases and sources, training resources and opportunities, opportunities to participate in conferences and meetings, opportunities to secure resources from the development community, including financial resources and in kind resources and materials
- Enhanced opportunities for online training and the sharing of learning resources and opportunities
- E-justice can facilitate the training of legal professionals and help them remain up to date with current thinking, trends and developments in the legal profession and related areas.

WHAT ARE THE STEPS REQUIRED TO IMPLEMENT E-JUSTICE?

From UNDP's perspective, the first step is to understand the issues faced by the poor and disenfranchised or disadvantaged in securing their rights to fair and equitable treatment under the law in the country or jurisdiction concerned. However, along with this assessment, there are other steps that can be undertaken to understand the situation regarding the operation and delivery of public services from the justice sector institutions that can be used, while preserving the focus on human rights, poverty reduction, governance and the empowerment of women and other disadvantaged groups.

Some of these steps are outlined here. While these steps are numerous and may seem daunting, they are not all required and can readily be adapted to given circumstances.

1. Understand the situation regarding public administration reform and modernization and the key issues faced in the jurisdiction in question at all levels of government and in all ministries and sectors and then focus on the justice sector specifically. Identify what are the issues and what are the priorities and why they are issues and priorities? Meet with key government officials in an apex ministry(ies) responsible for administrative reform and modernization and if applicable, also responsible for e-government. Understand the strategy and plan for the development of the justice sector and gather any documentation as well as lists of resources to consult. This will help frame any recommendations for change that an e-justice

assessment may consider and will provide justification and support for moving forward if further steps are required

2. Meet with justice sector managers and preferably the Minister of Justice him / herself. Meet with all agencies or entities in the justice sector. This would include: the ministry of justice, the courts, the prosecutor's office, the police, the prisons and rehabilitation services and possibly other entities such as: the ombudsman's office as well as any traditional court services or system such as the Gacaca system used in Rwanda. If there are specific legal challenges such as those associated with reconstruction and development and/or recovering from ethnic strife and/or genocide and/or promoting peace and reconciliation, then understand the situation and what is being done in order to make appropriate recommendations to enhance the processes in question
3. Undertake walkabouts in the ministries, departments and other public service organizations (PSOs) that are part of the justice sector broadly defined. A walkabout is an informal visit to an office, in this case an office of one of the institutions of the justice sector, to gather first hand information about process and workflow and the way information is handled and secured. The use of ICTs can also be monitored. Such as walkabout visit can also lead to informal discussion with public employees if appropriate. In our experience, this type of assessment can very rapidly lead to an understanding of some of the issues affecting process efficiency and service delivery as well as related issues such as openness and/or resistance to change
4. Meet with representatives of the national and/or local bar association to gather their input. The bar association has a particularly important role to play as the interface between the legal system and the courts and the public in both civil and criminal jurisdictions. Similarly, the bar association is usually in a position to reflect the concerns and demands of lawyers and other legal professionals across the country and as such, is an institution of particular significance. For similar reasons, the bar association will be able to assess the training and information needs and concerns of their members and also contribute to overcoming some of the problems identified through the use of ICTs
5. Meet with representations of the public: consumer associations or equivalent, associations of business people, women's associations, NGOs, human rights groups, etc. Focus on the needs of the poor and the disadvantaged especially. These groups are especially important in order to gather a complete picture of service delivery by the justice sector institutions as well as the efficiency and reach of the rule of law
6. Evaluate access to justice sector services and especially the services offered by the courts.
7. Undertake business process analysis of the key services and functions of the justice sector institutions. E-justice requires an understanding of basic business processes used in the justice sector as well as the demands and needs of the public. Do a walk around the institutions and/or departments that together make up the justice sector. Meet with staff and managers at the working level.
8. Undertake a needs assessment. Using UNDPs justice sector toolkit will help and will provide some basic information about the needs and challenges facing the country as well as the justice sector itself
9. Benchmark the countries progress in delivering justice services and identify some best practices that have been adopted in other jurisdictions that may be relevant to the country and the situation at hand. These other jurisdictions are usually chosen from countries that share a similar HDI and that have shown some progress in implementing e-justice solutions. The selection of the countries is made by the government representatives, with input from outside experts as appropriate. Benchmarking can also benefit from tracking developments in some of the countries and/or jurisdictions that may have been recognized internationally for their efforts in implementing e-justice. Countries such as Singapore, some of the OECD countries and some developing countries may also be of interest
10. Prepare a draft assessment report along with draft suggestions for moving forward, including a list of priority steps that should be taken along with a justifications and discuss with government and other representatives and stakeholders. Modify based on discussion with the government and stakeholders
11. Outcomes could run the gamut of focusing on a few immediate tasks such as computerizing the schedules of court rooms, providing computers to legal professionals, strengthening legal

teaching and training at the local level, etc. to undertaking more complex and wide ranging changes such as putting into place a e-justice strategy and plan along with a calendar and resource mobilization strategy to implement the plan.

It is important to be realistic in promoting e-justice solutions and not to try to do too much in a very short period and all at once. Focus on using ICTs as a way of helping legal professionals to help themselves in undertaking their work is one of the best ways of building the capacity of the legal and judicial system based on our experience. If some of this involves developing and putting into the hands of legal professionals information and tools that can raise awareness of the problem faced by the poor and disadvantaged along with knowledge resources and training tools, including self assessment and self learning tools, then this can also be very helpful, especially if this is supported in by ministry of justice and government decision makers.

One solution that may be of assistance and is the development of a network of legal professionals similar to the African Economic Research Consortium (AERC), a highly successful networks of African researchers that has been in operation since the 1980s and which networks economists in Africa and beyond and which has been used to support them and their research and concerns. AERC has had much success since its inception. qq

Legal professionals that have the tools at hand to better themselves while at the same time simplifying and streamlining their work are more likely to make use of the tools than otherwise. One basic recommendation for implementing e-justice could be to equip all staff in the legal profession with PCs and all judge's chambers and court rooms with Internet access. Judges in Rwanda for example were very keen to have laptop computers so that they could automate repetitive tasks and have access to the Internet to glean information about court decision and legal precedent in their country and otherwise. Accessing the Internet does not require high speed broadband connections for e-justice to work. In Rwanda, access to good telephone lines, a fully digitized telephone network and reasonably priced dial-up Internet access was all that was required for judges to undertake some basic email tasks. What the judges wanted more than anything else, along with the laptop and the Internet connection, was training to make beneficial use of these tools and technologies. In Rwanda, all public employees are to be trained in the use of PCs and the Internet by following a certification program that will allow them to obtain the ICDL/ECDL - the International / European Computer Driver's License.

E-justice for the poor

ICTs can be used for enhancing access to legal and other services available from the justice system. ICTs have been used for nearly 20 years now to encourage networking between local and community groups, grassroots organizations, women's groups and associations, NGOs, etc. on issues of common concern.

For the poor, ICTs can help empower legal groups and associations, including legal aid services, and others by providing them with access to information and examples that they can learn from and use to influence policy makers in their own countries.

The publication of information and the provision of services online can help the public as well as users in more remote locations to learn about the law and the justice system.

Because they are becoming so ubiquitous, mobile phones and increasingly, smart phones, which as essentially small and increasingly powerful computers offer a vehicle for informing the public about a variety of items and issues as well as services. The issue is what can these devices as well as more traditional Web based services available through the use of a PC offer to the poor.

The development of next generation networks (NGNs) and of increasingly powerful, popular and lower cost hand held computing devices, aka smart phones, such as the Apple 3G iPhone, the Research in Motion (RIM) Blackberry and a multitude of other intelligent and user friendly, handheld and wireless computing devices being churned out by manufacturers around the world is growing very rapidly.

This is contributing to the creation of a ubiquitous electronic environment, the cloud as some are apt to call it that is fast becoming accessible to all, especially to consumers in the developing world, including Africa.

In an ever increasing number of countries and communities, wireless coverage reaches close to 100 % of the population if not 100% of the country's land mass.

This wireless and ubiquitous cloud offers a medium or platform for what is now considered alternative service delivery in many different areas of human endeavour. This alternative form of service delivery will in the near future become the norm.

The justice sector needs to be ready for this, and to anticipate it and prepare now to take advantage of it.

Development objectives:

The goals or "development objectives" of e-justice programmes and activities are to use ICTs and related management practices to:

- Strengthen governance and the rule of law and promote social harmony, peace and trust by facilitating an informed law making system that responds in a timely fashion to the changing needs and circumstances of the public and of parliamentarians; and by making legal information and services, including the services of the judiciary more efficient, effective, transparent and accessible to all across the country ;
- Foster an enabling legal and judicial environment that is conducive to human, social and economic development and that strengthens the capacity of the country or jurisdiction to compete at the local, national, regional and international level, i.e. in the global market place;
- Contribute to the reform and/or modernization of the machinery of government in general and of the justice sector in particular.

The immediate or actionable objectives are to:

There are several immediate actions to consider in order to achieve these goals. They can be grouped as follows:

1. Make better laws
2. Enhance service delivery to all and to the poor in particular
3. Enhance the efficiency of the justice sector
4. Facilitate access to legal and judicial information and services
5. Enhance the capacity of the public in general and of the poor in particular to make beneficial use of the justice sector.

Specifically:

Make better laws

To enhance the capacity of the justice sector and of law makers to make and apply laws that support good governance and the rule of law and that facilitate the achievement of national development goals as well as the Millennium Development Goals (MDGs).

Enhance service delivery to all and to the poor in particular

- Enhance the capacity of the justice sector to deliver legal and judicial services to the public;
- Enhance the capacity of the justice sector to deliver services to the poor and other disadvantaged groups;

Enhance the efficiency of the justice sector

Enhance the efficiency of the justice sector (enhance business process efficiency - a prerequisite for the previous bullet point).

Facilitate access to legal information and services

Enhance the capacity of the public in general and of the poor in particular to make beneficial use of the justice sector

Issues / challenges facing e-justice implementations in the developing world

There are several issues that limit the reach and capacity of the government in general and of the justice system in particular to deliver services to the public and the poor in the developing world through the use of ICTs.

Without mentioning the many issues that affect the rule of law and the operation of the justice sector, here are some of the factors that may affect the capacity of the government to deploy and use ICTs and the capacity of the public and especially of the poor and disadvantaged to benefit from the e-justice systems and their advantages. These factors need to be taken into consideration when developing e-justice programmes and activities.

Some factors limiting e-justice

Access to infrastructure and ICTs

Specifically, these include:

- Availability of ICT infrastructure including especially telecommunications infrastructure and more specifically:
 - Access to mobile phone signals, especially high speed cell phone access, i.e. 3G systems. This is rapidly changing as several developing countries report very high levels of wireless coverage and penetration
 - Access to Internet services and especially to high speed Internet services. With the roll out of NGNs, countries and ICT service providers worldwide are fast jumping on the bandwagon
- Availability and cost of mobile phone handsets and services.
 - There is still some way to go in making handsets more available to the poor. However, some countries have recognized the advantage of providing access to wireless networks. In Rwanda, the government is handing out handsets at subsidized costs because of the perceived benefits. Wireless phone operators are seizing on this opportunity and working with governments in a form of public private partnership (PPP) to help spread access to these technologies. At the same time, the governments and service providers are jostling to develop appropriate local content and services.
- Availability and cost of PCs and related hardware and software as well as the cost and quality of Internet services

A key factor is the diffusion of ICTs, sometimes called e-readiness, and the capacity of the public and the poor especially to use ICTs.

- Aptitude to use ICTs:
 - Awareness of ICTs and of their potential has to be recognized and in many situations, this may not yet be the case
 - Aptitude and capacity of public servants and of government decision makers, including law makers and legal professionals to use ICTs as well as office productivity applications and services in general and e-government and e-justice systems in particular
 - Resistance to change in public administrations but also among members of the public that may be used to a certain way of doing things and are not able to adapt and change their work and other habits in order to make full use of ICTs
 - Lack of human capacity, lack of training to use ICTs
 - Lack of incentives to encourage the rapid adoption of ICTs in the workplace in general and in the justice sector in particular
 - Access:
 - Availability and access to
 - Content:
 - What services and content have been developed or could be developed for online service delivery using the Web or smart phones and/or other service delivery mechanisms? It is likely that at present there are few examples of online services of public interest specific to the justice system that are available through the use of mobile phones or services.
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- Access to justice, for instance: access for women
 - How to convey information to village groups;
 - How to convey information in a way that people can have access;
 - How to bring information with other media;
 - How to deliver public services

Actions for UNDP's governance programme to consider

Here is a preliminary listing of possible projects grouped under the headings used above to list possible areas of intervention and activities that the UNDP Governance programme may want to consider along with the justification for considering these activities.

1. Make better laws
 - a. Strengthen legislative systems and processes by training legislators and introducing them to the use of ICTs to facilitate their job and by computerizing the work of legislators
 - b. Strengthen legislation by networking legislators in different countries and jurisdictions
 - c. Create regional Legal and Judicial Research Consortia or equivalent organizations modeled on well established and successful social science research networks such as the African Economic Research Consortium (AERC). Once created, help these consortia acquire resources to function and operate, and meet regularly and develop programmes to support African and other regional professionals in the justice and/or legislative areas of expertise to institutionalize support for the further development and enhancement of the legislative, legal and judiciary systems of countries involved. This could also be a major support mechanism for modernizing and transforming justice systems everywhere through the use of ICTs.
2. Enhance service delivery to all and to the poor in particular

- a. Enhance the capacity of legal services to meet the needs of the poor and marginalized. Support legal aid organizations as well as women empowerment groups and associations as well as similar groups working with marginalized and otherwise disenfranchised groups. Provide support in the form of awareness promotion, training in how to use the law to their advantage and also training in using ICTs for networking with likeminded groups and organizations in the country and beyond if necessary and appropriate
- 3. Enhance the efficiency of the justice sector
 - a. Undertake an assessment of the efficiency of the justice system to deliver services to the public and other clients. Undertake a needs analysis and demand study for legal and judicial services. Focus on the mains user groups, in particular the public at all levels, including the poor and marginalized groups and distinguish between users in urban and rural areas, the public in general and the private sector in particular, with a focus on larger private sector firms as well as small and medium sized enterprises (SMEs) / small and medium sized industries (SMIs). Undertake an e-readiness assessment of the justice system looking at how the system operates, the use of ICTs and of automation in managing and delivering services; interview public servants and legal professionals to understand their needs and circumstances and what they want and need.
 - b. Based on the assessment and demand study,
- 4. Facilitate access to legal and judicial information and services
 - a. Digitize all laws and make the electronic versions available online and on CD and in all main local languages and dialects. Develop a search engine for searching and retrieving legal texts. Provide a guide to using this information
 - b. Ddescribe all legal services in simple and direct terms for the public and make this available in electronic form for diffusion using CDs and online through the justice system portal and related Web based resources
- 5. Enhance the capacity of the public in general and of the poor in particular to make beneficial use of the justice sector.

Specific considerations

Traditional justice systems

Traditional legal systems are those that have existed in a given locality over time. Traditional legal systems are part of traditional knowledge systems. ICTs can be used to enhance the operation and use of traditional legal systems in the same way that they can be used to enhance the operation of legal systems in general. However, traditional systems may not have access to modern amenities and even to electricity.

In Rwanda, the National Service of Gacaca Jurisdictions operates as a traditional justice system. Its ambit is to try the individual perpetrators of the Rwanda Genocide of 1994 because the formal legal system cannot deal with the number of cases.

The National Service of Gacaca Jurisdictions has operated in distinct phases. In the first phase, which is now over, the courts were used to collect and document the history, usually the oral history, of the events that took place before during and after the Genocide. A database containing this information has been assembled and is available through the National Service of Gacaca Jurisdictions in Kigali. This database contains references to events and to the people involved.

The next phase in the operation of the National Service of Gacaca Jurisdictions is to proceed to trial by Gacaca courts in over 1,200 villages throughout Rwanda of the presumed culprits responsible for the worst infractions, i.e. murder and rape.

It is unclear if or how ICTs could be used in this process as the proceedings of the village level Gacaca courts will be undertaken often under conditions where there is no electricity, no capacity to use ICTs and no ICTs to use in the first place.

ICTs can be used and should probably be used, but only at a later stage, in assisting with the recording of the assembled documentation and its consolidation and further dissemination.

Community access

Access to legal information and services can be enhanced through the use of community access facilities (CAFs) such as telecentres, community access centres, etc. The creation of legal information portals (see below for more on this concept) or of other online resources will assist by creating the content that can be used by people at the local and community level. However, many people at the local and community level do not have the capacity to make beneficial use of ICTs in general and for accessing legal information and services in particular.

Initiatives to enhance access to legal information at the local and community level should probably focus on enhancing the capacity of local associations and institutions or organizations to access and use the Internet, ICTs and related resources.

Local and community level organizations and associations, including grass roots organizations should be consulted when developing legal and justice sector information and knowledge resources as well as services in order to ensure that the information and services developed meet their expectations and needs.

Genocide observatories

This is an information centre/ library that will specialize in genocide research to support the legal system as well as any traditional court systems and establish a genocide legal information service and a National Genocide. Such an entity could be undertaken by the Supreme Court for example assisted by any other institution that may want to participate.

Outputs would include a library specialized in genocide research and documentation and including a library specialized in the national genocide information (if applicable) with information obtained from a variety of sources including the traditional court systems if applicable. It would include specialized publications or information and documentary materials concerning genocide.

Outcomes would include a better understanding of genocide events in particular and of genocides internationally as well as greater access to information on how to prevent a recurrence of a similar tragedy from reoccurring. The observatory would enhance access to documentation on genocide for researchers locally and around the world.

Question – adding e-justice to the UNDP global programme

How to add the e-justice component to the global programme, essentially focused on capacity development, in the context of justice sector reform/modernization (JSR/JSM).

The following provides some ideas and insights into how e-justice can be integrated into the UNDP global programme.

Some opportunities for using ICTs to enhance service delivery in the justice sector in the developing world especially and with a focus on

What should UNDP do?

There are several options for UNDP to consider in promoting and enhancing the capacity of countries and jurisdictions to modernize the justice sector and its operations and reach and in order to enhance service delivery. Some of these presented here.

Raise awareness of and access to legal information and rights - a legal information portal

ICT can be used to enhance awareness of and access to information about the rights of citizens and the public as well as the obligations of government and of elected officials. ICTs can also be used for enhancing access to information about the operation of the legal system and how citizens can go about seeking and obtaining legal redress through the courts and otherwise.

Using the Web or the creation of a legal information portal that provides a description what the law offers and how the legal system operators can be a first step. There appear to be a few such portals, including the following:

Some legal information portals

In India:

<http://www.indlii.org/index.aspx>

This portal was launched by the Prime Minister of India, Dr. Manmohan Singh on the eve of Law Day in India and is operated by the India Legal Information Institute.

This portal is not yet complete, but appears to have been put into place in part by and/or with the help of retired judges from India. It includes some useful information but may not be reachable by people without the ability to speak English.

Here is more information about the portal from another Web site⁶:

The legal information portal www.indlii.org of India legal information institute having all central and states law, judgments of supreme court, high courts and district courts, legal news, views and much more has been launched by the Hon. Prime Minister Dr. Manmohan Singh on 25th November, 2006 at a glittering function held at Vigyan Bhawan, New Delhi (India). This initiative is supported, developed, and hosted by Bitscape Solutions® an Ahmedabad, India based Technology consulting company.

Mr. Talwant Singh Gen. Secretary of Indlii.org said "everyone has a right to know law of the land free of cost, and with this in our mind we started this initiative". In the coming few months we will be putting many more information on this portal as we are acquiring it from various sources and it's a continued process of sharing the legal information free via the medium of internet". "this project was long versioned but executed with support from bitscape solutions®, the team at bitscape created the ground up portal very neatly and in efficient manner"

Mr. Kartik Shah, Business Development Director of bitscape solutions® said "we feel honored when we have been asked to provide support for this initiative, our business analysts and developers worked in tandem with institute to make this happen." "The support provided by the institute was also very efficient in delivering the solution on time."

⁶ See: The first free legal information portal of India developed, hosted and supported by bitscape solutions® has been launched by Prime Minister of India.

<http://www.partnerpoint.com/NewsBlogs/PartnerNews/tabid/297/mid/779/newsid779/88/Default.aspx>

More information is also available from the following site:

<http://www.watblog.com/2006/12/07/dr-manmohan-singh-launches-india-first-free-legal/>

About Indlii (India legal information institute)

Indlii is a Delhi based not for profit institute with a vision to make online and full public access to all publicly available legal information of India. The institute is committed to Collect legal information about India for all available sources and create awareness about the availability of free legal resources. To know more about the institute and how you can contribute to it email to info AT indlii.org

In Norway:

<http://www.lovddata.no/info/lawdata.html>

In Norway, access to legal information is assisted by Lovdata, a not for profit initiative described as following as per the Web site:

The purpose of Lovdata is to establish and operate legal information systems on a non-profit basis. Lovdata is not subsidized, but has in the past received contracts from the Ministry of Justice and other institutions aimed at establishing databases. Once a database has been established, Lovdata itself covers all updating expenses. In recent years Lovdata has covered all expenses in connection with establishing new databases.

Activities:

Lovdata's main activities are:

- *The operation of a Web-site with legal information*
- *The operation of an online Legal information service*
- *Publication of The Legal Gazette and the production of the text for Norwegian statutes in force, Norway Treaty Series and many other publications containing laws and regulations.*
- *Development of software in connection with maintaining and running large databases.*
- *Consultant in informatics.*

Lovdata is also the publisher of the following periodicals

Lov&Data, a publication for legal informatics edited by professor Jon Bing (published quarterly).

EuroRett, a publication highlighting legal developments within the European Union (ca 20 issues per year)

There are probably many other such sites.

Build capacity of the legal system using ICTs

Train legal professionals in the use of ICTs

The first objective is to train members of the legal profession on the use of ICTs for the operation of their profession and legal businesses. The focus is on training members of the legal profession on the use of ICTs for enhancing their capacity to learn and to operate efficiently and to access and use online and other electronic information and knowledge resources in the pursuit of their profession and in enhancing their capacity to deliver services to the public. This training can apply to existing lawyers and other members of the legal profession. ICT trained and aware legal professionals can take the initiative to help modernize and transform the justice system through the use of ICTs if they are already primed and trained on the advantages and uses of e-justice systems.

There exist increasingly important and diverse sources of legal and related information online that can be used by members of the legal profession no matter where they may be located. Once legal professionals are trained and aware, they will be the first to support e-justice.

Training lawyers and judges to use ICTs can enhance the efficiency of the legal system and the speed with which cases are dealt with equitably and disposed of. ICTs can help judges prepare their decisions more efficiently.

Build capacity of legal organizations and professionals who work with the legal system to use ICTs

An important component of this work is to also enhance the capacity of associations with an interest in legal and related issues, as well as associations of legal professionals such as Bar Associations for example. Bar Associations are especially important because of their role of the legal profession itself and because they can have an important role to play in developing the capacity of legal professionals to advance in their careers. Developing legal information centres, legal libraries and related resources in association with Bar Associations can also be an important way to enhance the capacity of the legal profession to use and apply ICTs.

Training legal librarians and information specialists can also be an important way of enhancing the use of ICTs and of strengthening the capacity of the legal profession to deliver services to the public in a timely, complete and efficient way.

Enhancing the capacity of non-governmental organizations (NGOs) and other local and community level groups and associations can also enhance their ability to deliver social and other services that can be of great interest and use to the poor as well as other marginalized groups in general.

Enhance access to legal resources and services

As mentioned above, there is an increasing amount of legal and related information and knowledge available online. There are probably over 150 legal databases accessible in the USA alone⁷. Legal databases, online legal information repositories as well as growing tendency to publish legal information online is demonstrating that ICTs are becoming essential for the operation of an efficient and modern legal system.

In work undertake in Rwanda, judges in rural court rooms mentioned that they would like to have access to online databases of judgments even if from other counties as they would allow them to compare and contract decisions taken on issues of common concern.

UNDP could assist countries it works with by enhancing the capacity of the legal libraries to access and use these resources in support of legal professionals throughout the country. Along with training, these resources are a rapid and effective way to help countries gain access to recent developments and thinking on the legal profession.

Build capacity of the legal system: enhance process efficiency and service delivery

One of the most efficient ways of transforming and modernizing legal systems and justice systems is through the use of ICTs in the form of e-justice systems.

By transforming the way court systems and the legal process operates, while at the same time ensuring confidentiality as well as security of information and of the system used, it is possible to enhance service delivery and enhance fairness and equity in the operation of the courts in particular and of the legal and judicial system in general.

⁷ See: http://library.law.unc.edu/research/legal_databases.html#general for a list of legal databases as well as <http://www.law.nyu.edu/library/research/foreigninternationaldatabases/index.htm>.

For UNDP, this means supporting the efforts of justice sector institutions and especially of the core judicial sector services such as the courts to use ICTs to strengthen and enhance their operations and the reach and level of services offered to the public. An integrated approach to enhancing service delivery is probably the best way forward as it allows synergies of scale as well as cross cutting and globally supportive actions to be considered and to be supported.

It is proposed that an approach based on the experience of the Rwanda ICT strategy be considered where the first step is determining the status of the justice system in general, the demands as well as needs and constraints the system faces in delivering services to the public.

In this fashion, it is possible to diagnose the situation and design appropriate interventions that are tailored to the specificities of the countries or jurisdiction in question.

Specific interventions can be undertaken as per the recommendations made here and as per some of the recommendations that appear in the Rwanda ICT strategy, after adapting these to local considerations.

For more information and for an example of an ICT strategy and action plan for the justice system, please consult the following documents, available from UNDP Rwanda and also from Richard Labelle at the following coordinates:

- Justice cluster ICT strategy and action plan. Richard Labelle and Eugene Manzi. 20060628 PM
- Rwanda justice sector. 20060601. Draft action plan for the transformation of the justice sector through the use of ICTs. Richard Labelle & Eugene Manzi. Consultants MINIJUST / UNDP.
- Detailed implementation plan. Criminal Justice Information System and ICT Legal Framework as described in the NICI 2 document made available to the consultants. 2006-08-28. Richard Labelle and Eugene Manzi, Consultants, National ICT Strategy
- Detailed implementation plan. Justice cluster ICT strategy. 2006-07-06. Richard Labelle and Eugene Manzi, Consultants, National ICT Strategy
- Rwanda Justice Cluster ICT Strategy Project. Appendix. Infrastructure, Information Systems, Budget. Prepared by Eugène Manzi. Senior ICT Consultant, m.iT. Date: April-June, 2006.

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